HR/LR Policy #1337

Sick Leave

Date Issued: 7/31/1997
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Authority: Enterprise Employee Resources

OVERVIEW

Objective

To provide guidelines to agencies regarding the use of accrued sick leave hours by employees.

Policy Statement

Employees may use accrued sick leave hours as authorized pursuant to State law, collective bargaining agreements (CBA), and compensation plans. Agencies shall not retaliate, take adverse action, or discriminate against an employee because the employee exercised or attempted to exercise rights protected under applicable law.

Scope

This policy applies to all employees of agencies in the executive branch, as defined in Minnesota Statutes, section 43A.02, subdivisions 2 and 22, and employees of the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teachers Retirement Association.

Definitions and Key Terms

Terms	Definitions
Absence due to domestic abuse, sexual assault, or stalking	Absence for the purpose of providing or receiving assistance because of domestic abuse under M.S. 518B.01, sexual assault under M.S. 609.342-609.3453 or M.S. 609.352, or stalking under M.S. 609.749.
Family Member	Pursuant to M.S. 181.9445, a family member for purposes of earned sick and safe time includes: (1) An employee's: (i) child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis; (ii) spouse or registered domestic partner; (iii) sibling, stepsibling, or foster sibling; (iv) biological, adoptive, or foster parent, stepparent, or a person who stood in loco parentis when the employee was a minor child; (v) grandchild, foster grandchild, or stepgrandchild; (vi) grandparent or stepgrandparent; (vii) a child of a sibling of the employee; (viii) a sibling of the parents of the employee; or (ix) a child-in-law or sibling-in-law. (2) Any of the family members listed in (1) of the employee's spouse or registered domestic partner. (3) Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship. (4) Up to one individual annually designated by the employee. Additionally, refer to the applicable CBA or compensation plan for qualifying family members.
Public Emergency	Pursuant to M.S. 181.9445, includes a declared emergency as defined in M.S. 12.03 or a declared local emergency under M.S 12.29.
Sick Leave	Accrued sick leave hours.

Statutory References

M.S. 181.9445-181.9448 Earned Sick and Safe Time

GENERAL STANDARDS AND EXPECTATIONS

I. Use of Accrued Sick Leave

An employee may use sick leave as permitted by the applicable collective bargaining agreement or compensation plan. Additionally, pursuant to M.S. 181.9445-181.9448, sick leave may be used for the following reasons:

(1) An employee's own:

- mental or physical illness, injury, or other health condition;
- need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition;
- need for preventive medical or health care; or
- need to make arrangements for or attend funeral services or a memorial, or address financial or legal matters that arise after the death of a family member.

(2) The care of a family member:

- with a mental or physical illness, injury, or other health condition;
- who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or
- who needs preventive medical or health care.

(3) Domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:

- seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
- obtain services from a victim services organization;
- obtain psychological or other counseling;
- seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or
- seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking.

(4) Closure of the employee's assigned work location due to weather or other public emergency and the employee is unable to work or telework, or an employee is needed to care for a family member whose school or place of care has been closed due to weather or other public emergency.

(5) An employee is unable to work or telework because the employee is:

- prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or
- seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the employee's employer has requested a test or diagnosis.

(6) When either of the following has been determined by the health authorities having jurisdiction or by a health care professional:

- The presence of the employee in the community would jeopardize the health of others because of the exposure of the employee to a communicable disease, whether or not the employee has actually contracted the communicable disease.
- The presence of a family member of the employee in the community would jeopardize the health of others because of the exposure of the family member to a communicable disease, whether or not the family member has actually contracted the disease, and the employee is needed to care for the family member.

II. Retaliation Prohibited

Agencies may not retaliate, take adverse action, or discriminate against an employee because the employee exercised or attempted to exercise rights protected under law, including but not limited to any of the following under M.S. 181.9445-181.9448:

- Requesting sick leave/earned sick and safe time,
- Using accrued sick leave for reasonable periods of time as the employee's attendance may be necessary,
- Requesting a statement of accrued sick leave,
- Informing any person of their potential rights,
- Making a complaint or filing an action to enforce a right to sick leave/earned sick and safe time, or
- Participating in any manner in an investigation, proceeding, or hearing under applicable law.

III. Managing Use of Accrued Sick Leave

Agencies will review an employee's request for the use of accrued sick leave to determine whether use is allowable under the terms of the CBA, compensation plan, this policy, or applicable law. Supervisors shall refer employees to Human Resources if additional information from the employee is needed regarding the employee's use of leave.

Supervisors will regularly review employee attendance records for evidence of abuse of accrued sick leave. If abuse of sick leave is suspected, supervisors shall notify Human Resources.

Abuse of sick leave is defined as the use of sick leave by an employee for a purpose other than those authorized by the applicable CBA, compensation plan, policy, or law. Where a supervisor has reason to believe that abuse of sick leave has occurred or is occurring, the supervisor should contact Human Resources

Abuse of sick leave or other violation of this policy may be subject to discipline, up to and including discharge.

Discipline or other adverse action may NOT be taken for the legitimate use of sick leave, including:

- any FMLA-qualifying time,
- sick leave used in a fiscal year for an eligible use, as defined under M.S. 181.9447, subd. 1,
- workers' compensation leave,
- leave time provided as a reasonable accommodation for a disability, or
- other uses of sick leave or leaves of absence to which the employee is entitled under an applicable collective bargaining agreement, compensation plan, or law.

IV. Employee Notice

If the need for use of sick leave is foreseeable, employees must provide advance notice of the intention to use sick leave. If the need for use of sick leave is unforeseeable, employees must provide notice of the intention to use sick leave as soon as practicable.

Employees must provide notice of the intention to use sick leave as directed by the employee's CBA or compensation plan and agency policies and procedures, but in all circumstances shall not be required to provide more than seven days' advance notice.

V. Documentation

When an employee uses accrued sick leave for more than three consecutive scheduled work days, agency human resources may require reasonable documentation under M.S. 181.9447, subd. 3, and in accordance with the applicable CBA or compensation plan. Agencies must not require disclosure of details relating to domestic abuse, sexual assault, or stalking or the details of an employee's or an employee's family member's medical condition as related to an employee's request. Reasonable documentation means:

- **For sick leave used under Section I. (1), (2), (5), or (6), above:** a signed statement by a health care professional indicating the need for use of sick leave. However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation may include a written statement from the employee indicating that the employee is using or used sick leave for a qualifying purpose covered by Section I. (1), (2), (5), or (6), above.
- **For sick leave used under Section I. (3), above:** a court record or documentation signed by a volunteer or employee of a victims' services organization, an attorney, a police officer, or an antiviolence counselor. If such documentation cannot be obtained in a reasonable time or without added expense, then reasonable documentation for the purposes of this paragraph may include a written statement from the employee indicating that the employee is using or used earned sick and safe time for a qualifying purpose covered by Section I. (3).
- **For sick leave used to care for a family member under Section I. (4), above:** a written statement from the employee indicating that the employee is using or used sick leave for a qualifying purpose as reasonable documentation.

Medical information obtained in connection with a request for the use of accrued sick leave is private data on individuals under the Minnesota Government Data Practices Act. All medical information obtained in connection with such requests must be collected and maintained in separate physical or electronic files from non-medical personnel files and records. Managers and supervisors should forward documentation related to the use of sick leave to/as directed by agency human resources. At the request of the employee, agencies must destroy or return the records required by M.S. 181.9445-181.9448 that are older than three years prior to the current calendar year.

VI. Use of Vacation Leave in Lieu of Sick Leave

Employees must use their sick leave accruals for absences that are allowed pursuant to applicable CBAs, compensation plans, policy, or law.

Employees who have exhausted their sick leave accruals shall be permitted to use vacation leave in lieu of sick leave for reasons covered by Section I.

Employees, who have not exhausted their sick leave accruals, may substitute vacation leave for sick leave when they are subject to losing vacation accruals while absent due to vacation cap restrictions identified in CBAs or compensation plan provisions. Such use shall be only to the extent necessary to prevent loss of the employee's vacation benefits.

All CBA and compensation plan provisions, policies, and work rules governing sick leave requests apply to requests for vacation in lieu of sick leave.

VII. Use of Paid Parental Leave (PPL) in Lieu of Sick Leave

Employees must use their sick leave accruals for absences that are allowed pursuant to applicable CBAs, compensation plans, policy, or law. PPL will not be granted in lieu of sick leave except as allowed by applicable CBAs or compensation plans.

VIII. Training

Supervisors are required to complete CORE training during their probationary periods, which includes a Managing Leaves training course. All permanent status supervisors are encouraged to attend the Managing Leaves training course presented by their agency or Minnesota Management and Budget (MMB) as part of the Supervisory CORE Training Program.

RESPONSIBILITIES

Agencies are responsible for:

- Distributing the Earned Sick and Safe Time Employee Notice, this policy, and related agency policies or procedures to agency staff at commencement of employment by any of the following options:
    - Posting a copy at each location where employees perform work and where it must be readily observed and easily reviewed by all employees performing work
    - Providing a paper or electronic copy to employees
    - Posting conspicuously in a web-based or app-based platform through which an employee performs work
- Ensuring that a notice, policy, or procedure that contains any of the following information is provided in English and the primary language of the employee, as identified by the employee:
    - Amount of sick leave the employee will earn
    - The sick leave accrual year
    - Terms of use for sick leave accruals
    - The procedure the employee must follow to request use of sick leave
- Requiring probationary agency supervisors, and encouraging permanent status agency supervisors, to attend Managing Leaves training presented either by individual agencies or by MMB as part of the Supervisory CORE Training Program.

MMB is responsible for:

- Ensuring that this policy is up to date with CBA and compensation plan provisions and any applicable statutory provisions.
- Providing training for managers and supervisors on managing employee sick leave.

REFERENCES

Collective Bargaining Agreements and Compensation Plans

CONTACTS

MMB Enterprise Employee Resources